

REMARKS

Claim Rejections – 35 USC § 102

The Examiner maintains the rejection of claims 1-31 under 35 USC 102(b) as being anticipated by Fishbine 5,781,647. The Examiner has agreed that the outcome of Fishbine is as Applicant contents. However, the Examiner argues that the basis for rejecting Applicant's claimed invention, as set forth in claims 1-31, is the structure of Fishbine based on the assumption that "gaming chips are similar to playing cards in that the only difference is the flexibility of the medium" and that "one skilled in the art can logically carry the preferred embodiment disclosed in Fishbine to a utilization of playing cards" However, the Examiner has failed to point out where in the prior art such motivation can be found to carrying the concept disclosed in Fishbine to playing cards, as suggested by the Examiner, to result in Applicant's claimed invention. In order for the Examiner to conclude that it is logical to extend the teaching of Fishbine the Examiner must specifically indicate where the motivation for such a conclusion can be found in Fishbine, as this is an anticipation rejection under 35 USC 102; Applicant submits that such a motivation can not be found in the art. Thus, the Examiner is inappropriately concluding that Fishbine anticipates Applicant's claimed invention because each and every claimed limitation as set forth in Applicant's claimed invention is not taught by Fishbine.

Additionally, Examiner's use of hindsight in asserting that the present inventions are "anticipated" is also inappropriate. In particular, based on an appropriate reading of Fishbine, the inappropriate rejection is illustrated by the fact that applicant's invention is directed to automatically parsing a stream of digital image data, not capturing and analyzing a single image as taught by Fishbine.

As previously pointed out Fishbine specifically teaches capturing a "gambling chip pile image . . ." See Figure 2, col. 3 lines 58-63, and col. 5 lines 12-15. Fishbine teaches that the image is captured only as determined by the operator; it is not a stream of data that includes a plurality of repetitive actions. See col. 5 lines 11-15. All Fishbine is directed to is determining the gambling habit of individuals. Thus, according to the teaching of

Fishbine it is only important to determine how many gaming chips an individual places on the table, and uses a simple image, which image is captured at a time determined by another human observer, typically the operator. Since Fishbine teaches only how to process data from a single image at a time chosen by an observer, it does not teach or suggest automatically parsing the stream of data "to count the plurality of repetitive actions . . ." as set forth in Applicant's independent claims 1, 24, and 28. Therefore, applicant requests withdrawal of Examiner's rejection of independent claims 1, 24, and 28 and allowance of same.

With respect to dependent claims, such as 4, 6, 9 and 19, Fishbine does not teach, disclose, or suggest counting the repetitive actions of dealing and playing or a sequence of acts based on the rules of the game, respectively. As noted earlier, Fishbine teaches that an operator presses a pedal that initiates the capturing of an image at an instant in time. In contrast, Applicant's claimed invention relates to obtaining a stream of data that is automatically parsed in order to count the repetitive action for dealing and playing or for determining the sequence of acts, such as based on rules of a card game. Other dependent claims illustrate determining repetitive action at a location at which the game is played, such as comparing where a marble lands with placement of a marble as recited in claim 12. Such is not taught or suggested by Fishbine. Accordingly, these dependent claims are also in condition for allowance, in addition to all dependent claims that depend from and further limit, in a patentable sense, independent claims 1, 24, and 28, respectively, and, thus are also in condition for allowance. Accordingly, Applicant requests withdrawal of Examiner rejection of claims 2-23, 25-27, and 29-31 and full allowance of same.

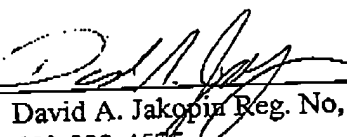
Conclusion

In view of the foregoing and because all rejections have been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted

PILLSBURY WINTHROP, LLP

By


David A. Jakopin Reg. No. 32,995
650-233-4575

REPLY TO CUSTOMER NO. 274987
2475 Hanover Street
Palo Alto, CA 94304